

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:14-CR-023-A
)
Government,)
) FORT WORTH, TEXAS
VERSUS)
) JULY 24, 2014
CHRISTOPHER ROBERT WEAST,)
)
Defendant.) 11:02 A.M.

VOLUME 8 OF 16
TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE JOHN McBRYDE
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S :

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Proceedings reported by mechanical stenography, transcript
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P R O C E E D I N G S

July 24, 2014 - 11:02 a.m.

THE COURT: We're on the line.

This is a conference call between the Court and the attorneys in Number 4:14-CR-023-A, United States of America versus Christopher Robert Weast.

Ms. Saleem, I understand you're on the line for the government?

MS. SALEEM: Yes, Your Honor.

THE COURT: And Ms. Saad, you and Mr. Curtis are on the line for the defendant?

MS. SAAD: Yes, Your Honor.

MR. CURTIS: Yes, Your Honor.

THE COURT: Okay. Is anyone else on the line? If so, speak up. Apparently not.

I have with me, the court reporter, who is taking this down.

I have some motions related to witness matters that I'm going to resolve this week so we won't lose time Monday morning. We plan to start our jury selection at or before 9:00 a.m., and we just don't have time to deal with these matters Monday morning.

The first thing I want to deal with is the government's motion for leave to file an amended exhibit and witness list, and the defendant has objected to that. Mention

1 is made of the timeliness of it, but I think the principal
2 objection is that the defendant doesn't think that the
3 testimony will be admissible, that Mr. Wines's testimony would
4 be hearsay, and that the birth certificate would not be
5 properly authenticated.

6 Ms. Saleem, what is your response to those things?

7 *MS. SALEEM:* Your Honor, I believe that the person
8 with firsthand contact with the minor can testify that he has
9 personally met the minor, that she was a minor when he met
10 her, and that's all based on personal knowledge, and that's
11 what this witness would testify to.

12 He was involved in the investigation or I guess the
13 prosecution of the person who created the pictures, so he
14 would be familiar with the images that were produced, as well
15 as that the minor is a real minor.

16 Additionally, with respect to the birth certificate,
17 it is corroborative evidence, and it should be admissible
18 under Rule 803(9) because it is a public record of a vital
19 statistic. It's simply a birth certificate of the child that
20 he met.

21 *THE COURT:* Is it authenticated by whoever the
22 person is who issued the certificate or the agency?

23 *MS. SALEEM:* I believe we do have -- I believe the
24 original is a certified copy, Your Honor, and then -- and then
25 we were proposing to offer a redacted copy.

1 THE COURT: I'm not sure that the possibility of a
2 redaction is an issue.

3 Is that an issue, Ms. Saad, that it might be
4 redacted, where the name is redacted?

5 MS. SAAD: Your Honor, I have no problems with the
6 redaction, just the authentication.

7 THE COURT: Okay. Let's back up to what you say
8 causes his testimony as to the child's age to be admissible.

9 He has seen the child? Is that what you're telling
10 me?

11 MS. SALEEM: Yes, Your Honor.

12 THE COURT: And he has also seen the images that
13 will be, I suppose, in evidence in this case?

14 MS. SALEEM: Yes, Your Honor.

15 THE COURT: Or that were on the defendant's
16 computer?

17 MS. SALEEM: Yes.

18 THE COURT: And he'll say that that's the -- the
19 images are of the child he's met and knows?

20 MS. SALEEM: Yes.

21 THE COURT: And the child he has met and knows
22 is -- well, I think that -- that's enough. That seems to me
23 like, Ms. Saad, that's enough for that to be admissible.

24 What is your thought having heard what she's
25 described?

1 MS. SAAD: Yes, Your Honor. First of all, I
2 would -- I would argue that his testimony would be presumed
3 and founded on the minor's statements saying, yes, that is me
4 in these pictures, and so that's the --

5 THE COURT: It would be based on what? I'm sorry,
6 I'm having a little trouble hearing you, Ms. Saad, and I
7 understand you're on a cell phone, so --

8 MS. SAAD: Yes. I apologize. I will speak up.
9 It's presumed -- his testimony is presumed on the
10 fact that the minor said, yes, that is me in those
11 photographs. That would be the first problem.

12 The second problem is we've requested this from
13 Ms. Saleem once before, and just before the conference call
14 today, for the time of his interview with the minor. I do
15 think that there is a gap between when he saw this person and
16 when the photographs were taken, and so that further
17 undermines that identification.

18 I recognize that that's not based on the hearsay or
19 Crawford objection, but that his identification would be
20 presumed. We have no reports or anything from this person,
21 but we do believe that his interview with the victim is what
22 establishes and authenticates his testimony and the birth
23 certificate.

24 THE COURT: You know what I think we're going to
25 have to do -- where is Mr. Wines, Ms. Saad?

1 *MS. SALEEM:* Ms. Saleem responding. And he is
2 in Newhaven, Connecticut.

3 *THE COURT:* I mean Ms. Saleem. I don't know why I
4 get your names mixed up.

5 Where is he, Ms. Saleem?

6 *MS. SALEEM:* He is located in Newhaven, Connecticut.

7 *THE COURT:* Well, as much as I hate to have him come
8 down here, I'm going to have him -- we'll consider your motion
9 for leave at the same time we consider the other motion
10 tomorrow -- I think we have it set at 11:00 -- because we're
11 not going to have time to deal with these things Monday
12 morning. So have him come down and give the -- we'll see what
13 it is he has to say.

14 *MS. SALEEM:* Okay.

15 *THE COURT:* Okay. And I'm denying that other
16 motion. We simply don't have time to deal with those things
17 Monday morning, the motion about the hearing on the use by the
18 defendant or late designation by the defendant of an expert.

19 And I've noticed that y'all have indicated an
20 agreement to do it by telephone, but I may have to make some
21 credibility determinations, and I can't do that if I can't see
22 the witness as he's testifying.

23 *MR. CURTIS:* That's fine, Your Honor. We'll have
24 him here.

25 *THE COURT:* Okay. So I'll see all of you in -- and

1 let me say this. I do have some question about the -- well, I
2 have question about both of these witnesses.

3 If you can give me some authority by 4:00 on witness
4 Wines, I wish you would do that, Ms. Saleem, if you could file
5 something providing the Court whatever authority you have in
6 support of his testimony and the use of that birth
7 certificate.

8 Tell me again what the -- what form the birth
9 certificate will be in. Will it be a copy that's certified or
10 authenticated by the agency that holds the birth certificate?

11 *MS. SALEEM:* I believe, Your Honor. I haven't
12 received it, but I will make that -- I will find out today. I
13 believe he has an original certified copy of the birth
14 certificate, as well as the redacted copy, of which he was
15 going to bring both with him.

16 *THE COURT:* Okay. Have him bring both of them.

17 Is the authentication of the document an issue,
18 Ms. Saad?

19 *MS. SAAD:* Only in regard to the authentication is
20 based on the original hearsay and Crawford objections, that I
21 have met this child, this child has told me that she's in the
22 video, that this is her birth certificate, those types of
23 objections, Your Honor.

24 *THE COURT:* Okay. Well, let's see where we're
25 going. You know what the objections are going to be,

1 Ms. Saleem.

2 MS. SALEEM: Yes.

3 THE COURT: So anticipate those objections and give
4 me whatever authority you have in support of your position.

5 MS. SALEEM: Yes, Your Honor.

6 THE COURT: I don't know that there's any need for
7 any briefing relative to defendant (sic) McGregor. He's
8 either qualified or not qualified and has -- or there's a
9 scientific basis, so to speak, for what he's offering or there
10 isn't, and we'll just have to evaluate that when he testifies.

11 Okay. I'll see y'all all at 11:00 in the morning.
12 I think that's it -- yes, that's when I had it.

13 ALL PRESENT: Thank you, Your Honor.

14 THE COURT: Thank y'all for being on the line.

15 (End of Proceedings)

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REPORTER'S CERTIFICATE

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signed this 15th day of January, 2015.

/s/ Debra G. Saenz

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